IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

Crl.MC.No. 3739 of 2007()

ST.50/1997 (S.T.NO.1800/96 OF J.F.M.C, ADIMALI) of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, DEVICOLAM

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PETITIONER: ACCUSED IN ST.50/97

VINOD, S/O.THANKAPPAN, AGED 39 YEARS,
MALAMUNDAYIL HOUSE, KONNATHADI, IDUKI.

BY ADV. SRI.T.RAJASEKHARAN NAIR

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY
THE PUBLIC PROSECUTOR ,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3739 of 2007

Dated this the 14th day of December, 2007

O R D E R

Petitioner faces allegations under Section 225 B I.P.C. The petitioner was accused in one case. Non bailable warrant was issued against him. He surrendered to the custody of the court. Thereafter without the leave of the court, the petitioner allegedly went away and escaped from the custody of the court. The learned Magistrate took note of the said facts and directed registration of a case under Section 225 B I.P.C. The case was registered. The learned Magistrate made over the case to another court. The prosecution is pending before such other court now. The petitioner has not entered appearance in that case so far even though cognizance was taken as early as in 1996.

2. According to the petitioner, he is unaware of the said proceedings. He has not been served with any notice. In fact, he has been appearing before the very same court on many occasions after this case was registered in another case. He was

blissfully ignorant and unaware of the pendency of the proceedings. He has now come to know that such proceedings are pending. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. Of course, he has a further contention that the case initiated against him is not legally sustainable.

3. It is for the petitioner to surrender before the learned Magistrate and seek regular bail. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. If the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. The learned Magistrate must certainly take note of the fact that the petitioner has allegedly been appearing before the same court in another case all along. If that submission is correct, that appeals to me as a very valid reason in support of his contention that he was unaware of the proceedings before the court. I need only say that the learned Magistrate must consider all the relevant aspects and pass appropriate orders on the petitioner's application for regular bail.

6. The prayer to quash the proceedings invoking the powers under Section 482 Cr.P.C is also of course made. I need only mention that I find absolutely no reason in the facts and circumstances of this case to invoke such powers under Section 482 Cr.P.C to bring to premature termination the proceedings under Section 225 B I.P.C initiated against the petitioner.

7. This Crl.M.C is accordingly dismissed with the above observations.

8. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-